MR. KAYALAM PARAMESVARAN PILLAI: Sir, As the law stands at present, the claims of Government against public accountants can be enforced against such accountants. But, if the accountant dies, there is no provision to enable his heirs being proceeded against. It is only fair that if a person is liable, his heirs should also be made liable. That is the simple principle that is sought to be carried out by this Bill.

The motion was put to vote and carried.

The Secretary then read the title of the Bill as 'The Public Accounts Regulation (Amendment) Bill.'

MR. KAYALAM PARAMESVARAN PILLAI: It is a very simple Bill and I do not think it requires reference to any Select Committee. It will come in due course for the second reading.

THE TRAVANCORE CRIMINAL LAW (AMENDMENT) BILL—INTRODUCTION OF.

MR. KAYALAM PARAMESVARAN PILLAI: I rise to introduce the Travancore Criminal Law (Amendment) Bill.

The Bill has been published in the Gazette with a Statment of Objects and Reasons. I beg to move that the Bill be read in this Assembly.

MR. C. V. CHANDRASEKHARAN: I second it.

MR. KAYALAM PARAMESVARAN PILLAI: Sir, the Bill firstly proposes an amendment of the Penal Code and a consequential amendment of the Criminal Procedure Code. There are two amendments to the Penal Code. One relates to Section 117 which deals with sedition; and the other proposes the introduction of a new Clause intended to put down writings the object of which is to insult religious beliefs. Section 117 of the Penal Code, as it would stand when amended has been printed along with the Statement of Objects and Reasons. It reads as follows:

> "117. Whoever by words, either spoken or written, or by signs or by visible representation, or otherwise, brings or attempts to bring into hatred or contempt or excite or attempts to excite disaffection towards the Sovereign of this Kingdom, or His Government or Her Majesty the Queen Empress of India or the Government established by law in British India."

Then comes the amendment.

> "Or any Indian Prince recognised for the purpose of this Section by a notification by Our Government in Our Government Gazette or the Government of any such Indian Prince shall be punished....."

The principle involved in this amendment is that any seditious utterance, against any other Indian Prince recognised for this purpose by the Travancore Government, may be treated as sedition in Travancore and dealt with accordingly. The reason for this amendment is this. Having regard to the close connection between Cochin and Travancore, it has been considered that such a provision is necessary to prevent sedition against the Cochin Government. Although the wording of the amendment is general, the immediate purpose of the

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[Mr. Kayalam Paramesvaran Pillai.]

amendment is to make it to apply to Cochin only. These two States are very much inter-connected; and as a result of negotiation with them they have already enacted a provision like this the benefit of which Travancore will ultimately get. As a matter of reciprocity too it is only fair that we also enact the provision here. And as I have already stated, it is not all Indian Princes that will get the benefit of this provision; but only those Princes who are recognised for this purpose by the Travancore Government.

The other amendment is an insertion of a new provision, as section 294 (*a*), to the following effect:

> "294 A. Whoever, with the deliberate and malicious intention of outraging the religious feelings of any class of Our Subjects, by words, either spoken or written, or by visible representation, insults, or attempts to insult, the religion or religious beliefs of that class, shall be punished with imprisonment of either description for any term which may extended to two years or with fine or with both".

MR. E. P. VARGHESE (*Ambalapuzha* cum *Shertala*): May I ask whether Section 197 of the Penal Code does not provide for this same offence?

MR. KAYALAM PARAMESVARAN PILLAI: No; I do not think it will serve the same purpose as of the present provision. There have been complaints of such writings and it is considered expedient that we should have a provision like this. This is quite like the corresponding provision in the Indian Penal Code; and the Cochin Government too have also enacted a similar provision.

I trust this House will accept the principles of the Bill.

MR. C. V. CHANDRASEKHARAN: I second it.

MR. K. T. THOMAS: I rise to oppose the principle of the Bill. In the statement of Objects and Reasons we are told that it is intended to penalise sedition against any recognised Indian Prince and that such a provision is considered necessary to prevent sedition against Cochin Government. We are also told that Cochin has passed a similar provision by Regulation II of 1111.

To me it appears that none of the reasons given justify the introduction of this Bill. Sedition primarily consists in exciting disaffection towards the Sovereign of the Kingdom or His Government. The people of this State owe loyalty and homage to His Highness the Maharaja and to the Government of His Highness. Where there is no duty to be loyal there cannot be the offence of disloyalty. Where there is no reason to possess affection, there cannot be disaffection. The loyalty and affection owed by the people of this State to the Ruling Maharaja and His Government have been stretched to include the same state of mind towards the supreme Government by law established in British India and to His Majesty the King Emperor and the reasons for the extenten are obvious. We owe allegiance to the King Emperor and owe the duty towards the Government by law

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established in British India. But to me it appears no like duty do we owe to any sister State. There are obvious differences between the relative position of a Travancorean to His Majesty and that between a subject of this State and the Ruling Prince of another Indian State. The former is one of allegiance and loyalty while the latter is at best one dependent upon the comity between States. That the difference is recognised is apparent from the fact that the law of sedition is not extended to every ruling Prince but only to such as may be recognised by the Government of Travencore by notification in the Government Gazette, and such recognition is distinctly one for the purpose of the section relating to the law of sedition. Thus it is obvious that no argument for the extension may be based on the circumstance that even as the law now stands His Majesty and the Government by law established in British India are already within the scope of the law of sedition in Travancore.

It cannot possibly be argued that a subject of His Highness the Maharaja of Travancore owes any duty to be loyal to the Ruling Prince of any other Indian State or the Government of such Indian Prince. Where the duty is absent, there ought not to be the offence. When it is remembered that an offence may consist equally in an omission as in commission, it may be seen that there is hardly any justification in making disloyalty to any Indian Prince punishable in a subject of this State. To speak of a Travancorean being disloyal to another State or its Prince is really a contradiction in terms.

Those members of this House as are acquainted with the administration of justice know how fine, delicate, imperceptible and very often impossible of being appreciated, is the line between 'disaffection' contemplated in the section and 'disapprobation contemplated in the succeeding explanation. I do admit that commentators and even Judges have sought to theorise on this delicate difference. But the fact remains that the difference is more theoretical than capable of practical application. The section is "calculated to place men's rights and liberties in the description of each particular Judge." Such a position is capable of being defended in so far as this State and British India are concerned, but becomes meaningless in its extension to other States.

Another consideration which is of material importance remains A trial for sedition may be initiated only by a complaint with the sanction of the Executive Government. So that when a complaint is lodged against a person for the offence of sedition, it is lodged under the authority of the Government and so far as it goes carries with it the persuasion. I would even put it as moral compulsion—which makes the delicate line between disloyalty and disapprobation thousand times more delicate. So far as the executive is concerned their view of the matter is sufficiently indicated by the circumstance of the sanction under which the complaint is initiated. For the Courts sitting in judgment over the alleged act of sedition the practical application of the theoretical difference becomes almost impossible. It becomes a distinction without a difference.

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[Mr. K. T. Thomas.]

The punishment prescribed for the offence has also to be adverted to. It may amount to imprisonment for life. The extension of the scope of the offence of sedition is a direct infringement of the freedom of the subject in the matter of speech. It just as much affects the liberty of the Press. A journalist may and it is his duty to censure the acts of the Government and point out the errors in the administration of justice. His duty it is to serverely criticise the policy of the Government and if he does his duty he always stands in risk of being hauled up under this section. This section would encourage a servile press, a press servile to the executive not only in matters concerning the Executive of this State but also in matters concerning the Governments of recognised Indian Princes. Says Dr. Gour "A comparison of the sentences passed by the Indian Courts with those awarded to offenders convicted in England would seem to suggest a glaring disparity in the conception of the gravity of the offence in the two countries at variance with the original intention of those who were responsible for the enactment of the Code." I may be accused of parochial partiality when I observe that disaffection against His Highness the Maharaja and His Majesty the King on the one hand should not certainly be placed on a par with disaffection against any Prince. It is unfair to the subject of his State if the two offences are placed on a footing of equality in the matter of punishment.

For these reasons I oppose the principle of the Bill so far as it relates to the amendment of S. 117 of T. P. C. and request this House to refuse permission to introduce this legislation. If the honourable the Law Member is prepared to split up the bill into two parts, I shall have nothing to say against the acceptance of the principle of the bill as regards its second part—the proposal to add Section 294 A to the Penal Code, and the amendment of the Criminal Procedure Code.

This House is told that there have been numerous complaints of wilful insults offerred by writers and speakers to the religious sentiments of readers and hearers. It is certainly unfortunate to have to admit the fact. Religious sentiments must be respected. Hence I shall have nothing to say in respect of the proposal to add Section 294 A to the provisions of the Travancore Penal Code.

MR. C. JEBAMONY NADAR (*Kalkulam cum Vilavankode*): Sir, I oppose the principle underlying the Bill. To me it appears that the Bill as it is can neither be welcomed nor supported. The policy of our Government in enacting a Penal Law against their own sucjec s and in favour of an ou sider who owes no allegiance to the State, who is not amenable to our laws, who is not a subjec to the control of our Governmen , and who is not wi hin the jurisdic ion of our cour s and who resides our ou side terri.orial limits and who pays not a single cash to our treasuries is, I think not at all commendable. Again the law of sedition as it s ands now did no find a place in the Indian Penal Code when fi s enac ed in British India, Mr. Satyamoorthi had expressed

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just a few days ago that Section 124 A of the Indian Penal Code does not deserve a place in that Code and he would attempt either to cancel it or modify it.

PRESIDENT: The honourable member refers to Mr. Satyamoorth in British India.

MR. C. JABAMONY NADAR: Yes, Sir. With reference to Section 124 A of the Indian Penal Code that was Mr. Satyamoorthi's view. But by enacting this provision we are going far beyond British India. According to our Section 117, I believe, that even the English Government is not protected. Why should we then protect these 600 Princes some of whom living so far away as the Himalayas. The Section is so worded that when a Prince is passing along the road if somebody moves his head in a particular way for that is a sign—a case for sedition may be taken up. The unfortunate accused will be then in a very dfficult position. He may have to cite witnesses from the North from the East and from the West of India. They may come to our courts and perhaps swear against the unfortunate accused. The energy of our courts may thus be wasted in going through all the formalities of a trial and add to their work unnecessarily. Our valuable time may thus be spent in protecting a foreigner. Therefore I submit that such a principle is not at all justifiable. There is no such law in England.

PRESIDENT: Order, order, the honourable member is wrong.

MR. C. JEBAMONY NADAR: I bow to the corection from the Chair. I believe that in England it is punishable as seditious libel. There it is libel if it is in a particular form, *viz.*, written and under certain circumstances libelling a foreign Prince.

PRESIDENT: The Chapter in Odgers on Libel and Slander will help the honourable member to correct himself.

MR. C. JEBAMONY NADAR: There also I bow to the Chair.

Even in British India as the law stands there, such an amendment does not find a place in Section 124 A even though two enactments were passed, one in 1922 and another in 1934. The Act of 1922 did not pass through the Legislative Assembly. But it had to be certified by His Excellency the Governor-General. The Act relates only to certain statements contained in books, newspapers and other documents and not to matters spoken or signs or representations, as we purpose. The other Act was passed in 1934. It was to this effect *viz.*, if anybody attempts in British India to overthrow by force the Government of any native Prince he is punishable. So far as Cochin is concerned it is not to serve as a model to us. I think Cochin must follow us rather than we follow Cochin. Even in a very simple matter the Temple Entry—Cochin has not yet granted that right to her citizens. That is the condition of Cochin. To follow such a State I think will not be beneficial to our State. Therefore that argument in the statement of Objects and Reasons has not much force.

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MR. T. C. KESAVA PILLAI (*Kalkulam* cum *Vilavankod*) : ഇതൊരു ചെറിയ സംഗതി എന്നുപറഞ്ഞതു് എന്തുകൊണ്ടാണു്.

MR. C. JEBAMONY NADAR : A simple fundamental right of the citizens.

MR. T. C. KESAVA PILLAI: തിരുമനസ്സിലെ ക്ഷേത്രപ്രവേശന വിളംബരം വളരെ ചെറുതാണെന്നാണോ പറയുന്നതു്?

MR. C. JEBAMONY NADAR : If the honourable member has understood me in that way I am sorry. But I say that I never meant that aspect. I referred to the Temple Entry problem as a simple one because it is a simple fundamental right of every citizen to worship in a place of public worship. I was saying that even that right has not been accorded by the Cochin State to her subjects. We are far far above that State. That being our position my submission is that we are not to follow Cochin in a matter like this.

So far as the other section of the Bill is concerned I think that there is already in our law sufficient protection to those who are insulted by being touched upon their religious feelings. I find from the Statement of Objects and Reasons that because there is such a provision in British India we must also have it in Travancore. But we don't find such an observation with reference to Section 117. We could have followed British India in regard to other matters and adopted similar provisions as are found in the British Indian Government of India Act of 1935. Moreover, so far as British India is concerned, there is a particular reason why the Princes must be protected. His Excellency the Governor-General is in duty bound, as the representative of His Majesty the King Emperor of the Princes also, to protect the Princes from all attacks from the British Indian subjects. But Travancore has no such obligation. Section 12 of the Government of India Act says that His Excellency the Governor-General is authorised to protect not only the rights of the Native States but also the prestige of the Native Princes. There is also a responsibility on the Governor-General to interfere in the administration of a State. So far as Travancore is concerned such a reason does not exist. With these words I oppose the Bill.

MR. M. G. MATHEW (*Karunagapally* cum *Karthigapally*) : I appose the motion for permission to introduce the bill. The proposal is to enlarge the ambit of Section 117 of the Travancore Penal Code so as to include, within its scope, speeches directed against the Princes of the Indian States. The principle underlying the new section is one that strikes at the very root of the liberty of the subjects of this State in matters of speech. This liberty has been existing from earliest times, and has been subject to various enactments and rulings for any speeches made in the Sri Mulam Popular Assembly rulings an action lay only with the permission of the Government, and that too only if it was launched within a specified time. Under the new Legislative Reforms Regulation there is complete freedom of speech. So this piece of Legislation is one that marks a retrograde step. The liberty of speech of the subject is so well preserved by both the Houses of Parliament that any infringment thereof was very severely punished. A Bailiff who went to arrest a member for anything said in Parliament was himself punished.

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In inter-national law also the princple is, that a person, of whatever state is at liberty to live in another country while he has incurred the displeasure of his own state for any speech he has made. The law of extradition is also plain in matter. Babu Arabindu Gosh who was disliked by the British Government has found a home in Pondicherry untroubled by the British, though they are quite friendly with the French.

MR. M. SIVATHANU PILLAI (*Tovala* cum *Agastesvaram*): Is not Babu Aurobindu Gosh at liberty to go to British India?

PRESIDENT: As a matter of fact Babu Aurobindu is quite at liberty to go wherever he likes. But he prefers to stay at Pondicherry.

MR. M. G. MATTHEW: You may in this connection remember the state of feeling in Russia against Trotsky. All the same he has been allowed to live outside the country and no force would give him up to Russia. Most of the people branded as anarchists in Europe are really people who agitate against the established form of Government in their own countries and seek to bring about changes and reforms according to the best of their conviction. They often live in foreign countries and those countries never give them up to the Governments against which they agitate. Sedition is not an extraditable offence and this is an accepted canon of International Law. This principle is well recognised in India also. In India there are 600 and odd Indian States under independent Princes, only having no international existence. Each sovereign is independant and free and supreme in his rights and owes only allegiences to the paramount power. A subject of one State offending the Prince of another State, may be committing an offence under the law of that other state. But he would not be handed over to that other State and he becomes liable only if he offends against the law of the country in which he resides. I may in this connection just tell the House that we are on the threshold of federation. When the Statutory Commission was asked to enquire into the state of administration in India, the terms of reference included only British India and not the Indian States. But Sir John Simon, the Chairman of the Commission suggested to the Prime Minister the desirability of enquiring into the administrations in the Native States too. The British Cabinet agreed to the suggestion and the inquiry comprised the working of the administrative machinary in the whole of India and the Commission recommended an All-India Fedaration including the Native States also. The British-India delegation in a memorandum to the Joint Parliamentary Committee pleaded for the recognition of the fundamental rights including freedom of speech and they have done so in their report and right of free speech is one of them. In British India the Congress is in power in seven provinces out of eleven. According to them inclusion of Native States into the federation and the nominees of the Princes as members of the Federal legislature would certainly be a clog upon the ideal of an All-India federation, where they wish to have the elected representatives of the Native States. Travancore is one of the most advanced States in India. But what about the other States? Most of them are in the 18th Century conditions. The people of these States would certainly like to become members of the federation, but what does Congress tell them?

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PRESIDENT: At present the parliament of the United Kingdom is in charge of that and not the Congress.

MR. M. G. MATTHEW: The Federal Court has been established on the 1st of October last, and we are on the thereshold of the Federation. All-Indians wish that Federation should come, as then they will have a field of activity far different from and for bigger than the Province or State which they belong. Such an ideal is very desirable. Should not the condition of the people living in these six hundred and odd native states in India be sought to be improved to accelerate the establishment of the poli ical goal. some of them are governed in semi-barbarous conditions and their people do not have representa ive institutions, and democratic Governments would only be possible if people agitated for their establishment. Suppose a political worker in British India or in a Native State wan s to bring about the further progress of the federation by agitating for the improvement of conditions of rule in the native states. It would be his ideal and desire to work for the improvement and uplift of all he native states which are for behind his own province or state.

PRESIDENT: Order, order. I do not wish to interrupt the honourable member. But a number of important rulers of Indian States sent up a communication protesting against the use of the term native State and the cabinet of Great Britain has resolved not to use the term native States in their official communications. We may also follow that example because it conduces to greater dignity.

MR. M. G MATHEW: So, it becomes absolutely necessary that most of these Indian States should have their representatives elected by responsible legislatures in these States. Only those people can function well and properly in a Central and Federal Legislature. To attain this end it will be necessary to agitate vigorously, and agitation may not be encouraged by the Princes who are holding sway over these territories. In these circumstances to pass the present law will be a blot upon the fair name of Travancore and it will impede the progress of India as a whole. This would not be quite a correct sort of legislation, and we should not encourage the same. Many of the Travancoreans are desirous to have the federation brought into being. If a subject of Travancore speaks against the prince of any other Indian State his speech is sought to be branded seditious. This is curtailing his liberty of speech and we shall be placing on the statute book perhaps a dark legislation not in keeping with the fair name of Travancore. This being the true aspect, a legislation of this sort would not be in the interests of Travancore and to enact this would be forging the chains of bandage for ourselves.

In regard to the second part, about wounding the religous feelings of a class of the subjects, my suggestion is that already there is a section in the Penal Code, section 297 to effectively check the civil and the inclusion of another is not called for. I object to the introduction of the bill.

PRESIDENT: Before this matter is put to vote, I shall address a few observations. Does any other Member wish to speak?

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MR. E. JOHN PHILIPOSE (*Tiruvalla*) . I should like to say just one word. Sir, I do not in the least desire to detain the House in respect of matters which have already been discussed. I endorse every argument that has been advanced by Mr. Thomas and a very great portion of what has been spoken to by Mr. M. G. Mathew. I found that when Mr. Jabamony Nadar was addressing this House and when he said that even a shake of the hand or a gesture may be construed to be something in the nature of sedition, there was general laughter in the House. I may say, Sir, that the law of sedition is so wide that it is very difficult for any one to escape being brought under that law. The law of sedition has to be essentially so wide because the law of sedition is based on the fundamental existence of the State ; and whether it has to be put to action in one matter or another depends on the sole individual discretion of the executive. So that, it all comes to this that the right of free speech depends on the willingness and readiness of the executive in porwer at present to concede to the subjects what they think is right and proper at the time. Therefore it is that I emphasise this one matter. This particular provision attempting to extend the law of sedition so as to bring within its scope questions relating to Indian Princes and their Governments is a matter that is really a challenge to the right of free speech. For in all countries where democratic Governments or Governments approaching democracy depend to a great extent on public opinion for its actions and if public opinion is to be the decisive factor there must necessarily exist the right to create public opinion. Therefore it is that every person in the State would consider the extension of this provision which places in the hands of the executive a further right than what exists at present to bring within its grip every individual subject whenever it deems fit so to do. Therefore, Sir, as a matter hat is a challenge to that very fundamental right of free speech of the subject, I definitely oppose the principle underlying the Bill in respect of this particular section—section 117 of the Penal Code.

MR. E. P. VARGHESE : Sir, I also rise to oppose the amendment proposed to section 117 of our Penal Code. The law of sedition is based upon the fundamental right of the existence of the State. A citizen no doubt is bound in duty to owe allegiance to the Ruler and the Government under which he is , to the Ruler and to the Government of the State by which he is protected he is bound in duty to owe allegiance. But it passes my comprehension as to how a subject of Travancore can be asked, or can be punished for that matter for not possessing the same feelings of affection towards the prince or Government of another Indian State. As has been stated by the honourable member, Mr. Thomas, even the punishment for sedition against another Indian Prince is the same as that for sedition againt our own State. Sir, the law of sedition curtails the liberty of speech and the liberty of the press. Of course, these liberties which are supposed to be the fundamental rights of the citizens may be curtailed for the purpose of the good Government and the safety of the State, but to extend it beyond that is something which is opposed to the fundamental principles. It is not necessary for me to reiterate all the arguments

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[Mr. E. P. Varghese.]

that have been advanced. Of course, in British India there is the Indian Princes Protection Act. The British Government as the Paramount Power has to see that the Indian Princes are protected from attacks by British subject. But I do not see how our subjects can be punished for sedition, for writing or for speaking against an Indian Prince or the Government of an Indian Prince of another State except that of our State. As I submitted, this freedom of speech and this freedom of the Press are fundamental rights and these are very zealously guarded by the people of an advancing State. It has been the custom of civilised countries to extend the liberty of the press and the liberty of speech. But, Sir, this amendment, I am afraid, goes beyond what may be called the necessity and the trend of the times. It may be a matter of courtesy perhaps for our State to see that our Press and public platform do not attack a neighbouring State and cause by rupture to the friendly feelings that exist between two neighbouring States. But to go beyond that and to make it a crime and punish it on the same footing as we do the violation of the law of sedition against our State, is surely opposed to principle and I strougly oppose that amendment. I would appeal to the honourable members of this House just to ponder over it seriously and think whether it is quite essential to have this amendment on our statute book.

MR. E. SUBRAMONIA AIYAR (*Nominated*): Sir, in the consideration of this Bill it appears to me that there are two questions. The first question is whether the Indian Princes require protection from any activities in our State being started against them. That is the first question. If they require protection from such activities, we have to consider the extent of the protection that may be required to be given; In other words, we will have to consider whether the ambit of that protection should be co-extensive with the ambit of protection which our Government and Our Maharaja should have. That is the first question. The second question is if protection is necessary and the limit of the protection is dependent upon whether it should be a part of an amendment of the penal law or a special act. These two questions are questions which the House ought to consider before they accept the principle of the bill. No doubt, such questions as suggested by other members about the freedom of speech &c., may arise. But the paramount the House is to consider is whether this should be part of the penal law. In British India a special act was enacted for the protection of Princes. That is all that I have to state in this connection. After that question is decided, this House may consider the limitations that are necessary.

MR. T. C. KESAVA PILLAI : പ്രധാനമായ രണ്ടു സംഗതികളാണ ഈ ബില്ലിൽ പറഞ്ഞുകാണുന്നത്. വിദേശത്തുള്ളതായ നാട്ടുരാജാക്കന്മാരോട ഇവിടത്തെ പ്രജകൾ എങ്ങിനെ ബഹുമാനം കാണിക്കണമെന്നുള്ളതാണ ഒന്നാമത്തെത്. മതപരമായ സംഗതികളിൽ തിരുവിതാം

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ക്രിയെ പ്രജകൾ എങ്ങിനെ പെരുമാറണമെന്നുള്ളതാണു രണ്ടാമത്തെ സംഗതി. തിരുവിതാംകൂറിനു വെളിയിലുള്ള മഹാരാജാക്കന്മാരോടു നാം ബഹുമാനമായി പെരുമാറണമെന്നു നിർദ്ദേശിച്ചിരിക്കുന്നതു കേവലം മര്യാദ മാത്രമാണ്.

തിരുവിതാംകൂറിലെ മതപരമായ ഇന്നത്തെ സ്ഥിതിക്കു ഇങ്ങിനെയുള്ള ഒരു വകുപ്പിന്റെ ആത്യാവശ്യമുണ്ട്. മതസ്വാതന്ത്ര്യം തിരുവിതാംകൂറിൽ പരമ്പരയായി നമുക്കുള്ളതാണ്. മതങ്ങളിൽ എത്രത്തോളം ആളുകളെ ചേർക്കാമോ അത്രത്തോളം ആളുകളെ ഓരോ മതങ്ങളിലും ചേർത്തുകഴിഞ്ഞു. ഇനി ചേർവാൻ മതമില്ലാത്തതുകൊണ്ടു ഓരോ മതങ്ങളുടെയും അകത്തു് ഉപമതങ്ങൾ വന്നുതുടങ്ങിയിരിക്കുന്നു. ഹിന്ദുമതം എടുത്തു നോക്കിയാൽ "നിരീശ്വരമതം" എന്നൊരു വിഭാഗം പ്രത്യേകമുണ്ട്. ഇതിനുംപുറമെ ചിലർ മതപരമായ ചില സംഘങ്ങളും രൂപീകരിച്ചിട്ടുണ്ട്. ഇവർ തമ്മിൽ പലവിധത്തിലുള്ള ആക്ഷേപാർഹങ്ങളായ സംഗതികൾ പുറപ്പെടുവിക്കുകയും തൻനിമിത്തം അടികലശൽ മുതലായ അനിഷ്ടസംഭവങ്ങൾ ധാരാളം ഉണ്ടാകുകയും ചെയ്യുന്നുണ്ട്.

MR. K. R. NARAYANAN (*Vaikam* cum *Kottayam*) : നിരീശ്വരമതം ഹിന്ദുമതത്തിൽ പണ്ടേയുള്ള ഒന്നാണെന്ന മെമ്പർക്കറിയാമോ? സാംഖ്യന്റെ ശാസ്ത്രം മുഴുവൻ നിരീശ്വരത്വമാണെന്നറിയാമോ?

MR. T. C. KESAVA PILLAI : എനിക്കു് മതത്തിനെപ്പറ്റി ഒന്നും അറിഞ്ഞുകൂടാ.

ക്രിസ്തുമതത്തെപ്പറ്റി പറയുകയാണെങ്കിൽ അമേരിക്കയിൽനിന്നും തുടങ്ങിയതായ പെൻറിക്കാസ്റ്റു എന്ന ഒരു സെറാള്ളകൾ ഇവിടെയുണ്ട്.

PRESIDENT : Order, order. The details of various creeds need not be discussed at this moment.

MR. E. J. PHILIPOSE : Besides, may I point out Sir, that when we are discussing a law which aims to invest with legal disapprobation sentiments that outrage the feelings of other religionists, the reputation of words and ideas in this debate which are joculary and derisively used in respect of certain religious should be deprecated.

PRESIDENT : Yes. Honourable members will also remember that the statements in this House are privileged, and that is all the more reason why Honourable members should be very careful in making statements.

MR. T. C. KESAVA PILLAI : സമീപകാലത്തു് ഒരു മതത്തിൽപ്പെട്ട ഒന്നു രണ്ടു വിഭാഗക്കാരുടെയിടയിൽ ചില വഴക്കുകളും മറ്റുമുണ്ടായി

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[Mr. T. C. Kesava Pillai.]

ഹർജികളുമേറും കൊടുത്തതായി എനിക്കറിയാം. ഒരു മതത്തിലെ ഉപവിഭാഗക്കാരുടെ ഇടയിലുള്ള പ്രക്ഷോഭണങ്ങൾകൊണ്ടു പല ദോഷങ്ങളും നാട്ടിന് നേരിടാൻ ഇടയുണ്ട്. അതുകൊണ്ട് ഒരു മതത്തിൽപെട്ട വ്യക്തി ഇന്നതെ പറയാവൂ ഇന്നതെ പ്രവർത്തിക്കാവൂ എന്ന നിയന്ത്രിക്കേണ്ടതു് എതായും അത്യാവശ്യമാണ്.

നമ്മുടെ മഹാരാജാവു് അന്യരാജ്യത്തു ചെന്നാൽ അവിടത്തുകാർ നമ്മുടെ മഹാരാജാവിനെ ബഹുമാനിക്കണമെന്നുള്ളതു നമുക്ക് എല്ലാവർക്കും അഭിമതമുള്ള ഒരു സംഗതിയാണ്. അതുപോലെ അന്യ മഹാരാജാക്കന്മാരെയും നാം ബഹുമാനിക്കേണ്ടതാണല്ലോ. ബില്ലിൽ "തിരുവിതാംകൂർ ഗവണ്മെൻറ് അംഗീകരിക്കുന്ന മഹാരാജാക്കന്മാരെ" എന്നു ചേർത്തിട്ടുണ്ട്. ഏതെങ്കിലും രാജാവിനെ ഉദ്ദേശിച്ചുണ്ടാക്കുന്ന ചോദ്യങ്ങൾക്കു തോന്നുന്നപക്ഷം നമ്മുടെ ഗവണ്മെണ്ടു് ആ രാജാവിനെ മറിവാക്കാൻ ബില്ലിൽ വ്യവസ്ഥ ഉണ്ട്. ഒരു പാലം അക്കരക്കും ഇക്കരക്കും പോകുന്നതിന് ഉപയോഗിക്കുന്നതുപോലെ വിദേശങ്ങളിലെ മഹാരാജാക്കന്മാരെ നാം ബഹുമാനിക്കുന്നതു് നമ്മുടെ മഹാരാജാവിനെ അവർ ബഹുമാനിക്കുന്നതിനു കാരണമാകുന്നു. സെലക്ട് കമ്മിറ്റിയിൽ ആവശ്യമുള്ള ഭേദഗതികൾ വരുത്തുകയല്ലാതെ നിയമപണ്ഡിതന്മാരെ തെരഞ്ഞെടുക്കണമെന്നുള്ള നിർദ്ദേശത്തോടുകൂടി ഞാൻ ഈബില്ലിലെ തത്വത്തോടുകൂടി യോജിച്ചുകൊള്ളുന്നു.

PRESIDENT: As the debate has raised questions of very great political and constitutional importance, I think it is my duty to advert to the attitude of Government. As the Law Member pointed out, there were negotiations between the British Government and the Cochin and Travancore Government with regard to the enactment of reciprocal legislation for the purpose of protecting the Cochin Maharaja from being attacked in Travancore and the Travancore Maharaja from being attacked in Cochin. I may say that this Government, some time ago, gave a definite and specific undertaking that they would try to enact a law for the purpose of protecting Cochin against attacks from within this State provided the Cochin Government also enacted a provision of a reciprocal character. Cochin has introduced and passed such legislation and so this Government is in honour bound to carry through this legislation. But I do not desire at this moment to emphasise that aspect though the matter is exactly as I have stated.

I shall now deal with the law on the subject. I refer to Odgers on "*Libel and Slander*", which, as is well known, is the standard treatise on the subject. At page 378 we find notes of two cases which may be reproduced.

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Lord George Gordon was tried in 1787 and convicted upon an information charging him with libelling Marie Antoinette, Queen of France, and "her tool", the French Ambassidor in London. He was fined £ 500 and sentenced to two years' imprisonment, and at the expiration of that time to find sureties for his good behaviour. This he could not do so, so he remained in prison till he died on November 1, 1793.

The publication and circulation in London of a newspaper article written in German exulting over the murder of the Emperor Nicholas of Russia and commending it is an example to revolutionists throughout the world is an incitment to murder under s. 4 of 24 & 25 Vict. c. 100 although not addressed to any person in particular; it is also a criminal libel.

That is the fundamental principle of English law, which has also been followed in various jurisdictions in America. It has already been pointed out that so far as British India is concerned, the British Government has passed the Princes' Protection Act.

But there is one aspect of the matter which, I submit, has not been carefully kept in view in the observations and criticisms that have been made on the floor of the House. And that relates to mutuality and reciprocity as essentials of this topic. Let me, at the risk of taking up some of the House's time mention one recent instance. There was a pamphlet published in Cochin which called upon people all over India and especially the subjects at the Travancore State to rise in revolt against the Maharaja who was so oblivious of his duties as a Hindu as to promulgate the Temple Entry Proclamation. It specially condemned the subjects of Travancore for their supineness in tolerating and putting up with His Highness' rule. And hundreds of copies of that pamphlet were circulated in this State. In each one of those pamphlets was contained an exhortation to the people of the Travancore State to get rid of—I am using the exact words used in that pamphlet a Maharaja who it was alleged has been false to the Hindu religion. That pamphlet has been proscribed here, and if the author comes within this jurisdiction we shall know how to deal with him. The Cochin Government took the view that whereas they have enacted a law, we have not enacted any reciprocal law and that therefore we were not reasonable in our request that the miscreant should be punished. At all events until this moment nothing has been done by the Cochin Government in this matter presumably because they have passed a legislation to that effect and because we have not passed legislation reciprocally.

In discussing this matter it must be borne in mind that the object of the enactment of this Bill is to prevent occurrences of that kind. I was rather sorry to hear some disparaging references to a neighbouring State. But remarks made here are privileged and therefore entail special responsibility. Supposing a pamphleteer or writer were to say that because a Temple Entry Proclamation has not been passed in Cochin, therefore the Monarch of Cochin ought to cease to command

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[President.]

the allegiance and loyalty of his subjects, and suppose those pamphlets are circulated here as was done in Cochin, what is the position? It would be embarassing and intolerable. The whole of this doctrine is based on comity. It is on the principle of comity that this law has been laid down as a principle of international observance.

It was said that sanction is given as an executive matter and the courts are bound to convict as soon as they see that Government have granted sanctions to procecute. It trust that the Travancore courts will see to it that they are not influenced in the slightest degree by what should not be considered to be executive mandates. I feel confident that the Travancore courts will have no hestitation to throw out a frivolous complaint even if the Government were ill advised enough to start such a complaint. It is fervently hoped that our courts will rise above these temptations to stray from their path by fear or favour.

The executive sanction should not be construed to be a mandate to a court to do anything. It is necessary only so that the public may be assured that the authorities have taken action after due deliberation. On the other hand, as is well-known, in a series of judgements in the Calcutta High Court, the Judges, some of them very eminent have thrown out, as not falling within the mischief of the law, many sedition cases brought by the Executive Government. The same thing has happened in the Punjab. I trust that when a proper occasion arises our courts will not flinch from taking action which may not, seem to be palatable to the executive Government. But which the Executive Government should appreciate and respect.

There is one other matter which is more important, and I shall make it clear. So far as this protection of Rulers and Government is concerned it must be realised that there should be a certain amount of latitude. If discussions take place about Federation or about the rights of the Princes or their obligations to introduce Reforms within their States or about the way in which they should proceed to remodel the institutions in the State, it would be acting in an insensate fashion if these discussions were tabooed and punished. That is not what is intended. What is intended by this Bill is to prevent that kind of onslaught, that kind of annoyance, that kind of subversive activity which it is the object of constitutions all over India to avoid either in respect of their own Government or of friendly neighbours.

So far as the other branch of the law goes I do not want to dwell on it at length. Even after I came here, I have seen speeches made by some persons; and in one pamphlet Virgin Mary and her character were assailed in such a manner that it practically made me wild and the attack may easily have caused a riot. I have seen vulgar statements regarding Sri Sankaracharya and Parasurama. Certain things were said of them which would, if prompt steps were not taken, and if the speeches had been circulated, would have led to disturbances. I know that the people of Travancore in general have too much good sense to indulge in such vulgarities. But there are some persons—

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especially one or two—who ought to know better but who purposely make mischief between communities; and it is in order to make an example of them that this Bill is sought to be introduced.

MR. JOHN PHILIPOSE : With very great respect, I wish to ask—I should not be considered as questioning the Ruling, keeping in mind the gravity of the decision of the President— one question. May I know whether it is open to the President when addressing on a matter of constitutional importance, to speak on behalf of the Government and make the policy of the Government clear when there are Government nominated members who could do that and thereby serve to a very great extent to influence the view of the House?

PRESIDENT : The President may, under Standing Order 24, in all cases address the Assembly before putting the question to the vote. Then under Section 7 of the Regulation the Dewan shall be the President of the Assembly. Therefore there can be no difference between the President of the Assembly and the Dewan. To camouflage the position is to mislead the House. The President cannot confine himself to points of order when as Dewan he has to be responsible for legislation and the administration of the country to the Sovereign. That is one of the drawbacks or the advantages of the present constitution as the President of the Assembly is also the head of the Government. In certain cases it has been considered necessary that the President of this Assembly should also act as the head of the Government. It may be right or it may be wrong policy by reason of which these sections have been enacted but there they are and they must be implemented. Of course what the President says or rules—he says from his knowledge as the head of the Government—and he lays down what the policy of the Government is. He acts as President when ruling things in order or out of order. But, when enunciating a policy he, necessarily and without camouflage, speaks both as President and as head of the Government.

Moreover honourable members have perhaps forgotten because it is a long time since such things took place—that in the old Imperial Legislative Council, and in various Provincial Legislative Councils in one which I have participated, the Viceroy and the Governors who presided over them had to and did address the members and enunciate their views as Heads of Governments in a series of speeches. That was exactly what happened in the Minto-Morley dispensation who can have forgotten there Lord Curzons' speeches on Mr. Gokhale's bill.

Normally and in ordinary and routine matters I concede that it will not be the duty of the head of the Government, to lay down their policy or seek to influence the votes of the members.

There is one more observation, I with to make and that is with regard to the nominated members. There is a common fallacy, an idea that the nominated members are in some particular manner liable to be more influenced by the Government and are more liable to vote with the Government than the elected members. As a matter of practice, it is not always so. It is not so in theory, and it should not be so in

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[President.]

practice. Once nomination has been made, the member's liberty of action, their liberty of vote is unrestrained and absolute. There is no right here on the part of Government to call upon the nominated member resign if he does not vote in a particular manner. Once he has been nominated, his period runs for 4 years. We shall take that illustrious example of the Honourable Gokhale and Mr. N. M. Joshi. Mr. Joshi has during the last 10 or 12 years voted almost regularly against the Government; and that has not prevented him from getting himself nominated year in and year out for every Assembly. He has gone on like that for decades. After nomination, on principle, every member is to have the same liberty of action and vote as the elected memers. As a matter of fact, I have known instances when it has been perhaps easier to influence the vote of the elected members than that of nominated members. Therefore I do not think that observation should be made.

MR. K. T. THOMAS: On a point of information. On a matter pertaining to legislation, as is the present one, would it be proper if the House were to examine the arguments that have been advanced by the President?

PRESIDENT: Unfortunately not; because the Section says that the President can address the Assembly before the matter is put to vote. There can be no intermediate speech. That is one of the unfair advantages, as you may term it of the present constitution.

The motion was then put to vote and carried.

MR. K. T. THOMAS: Sir, I demand a poll.

A poll was taken with the following result.

AYES—37.

1	Mr. P. C. Adichan	19	Mr. K. G. Kunjukrishna Pillai
2	Sahib Bahadur V. Chandamiah	20	,, K. Parameswara Panicker
3	Mr. S. Chattanatha Karayalar	21	,, N. Narayana Kurup
4	,, M. L. D'Cruz	22	,, R. Narayanan Namboori
5	Srimati K. Devaki Antharjanam	23	,, G. P. Nilakanta Pillai
6	Mr. E. E. Pandarathil	24	,, S. Nilakanta Pillai
7	,, D. Francis	25	,, Kainikkara M. Padmanabha Pillai
8	,, K. George	26	,, Kayalam Parameswaran Pillai
9	,, M. L. Janardhana Pillai	27	,, J. E. A. Pereira
10	,, N. John Joseph	28	,, R. Pitchu Aiyengar
11	,, K. C. Karunakaran	29	,, Codiveetil C. Ramankunju
12	,, T. C. Kesava Pillai	30	,, M. Ramia Pillai
13	,, T. T. Kesavan Sastri	31	Rao Bahadur A. Rengaswami Aiyar
14	,, Kaviyoor K. K. Kochukunju	32	Mr. Sivathanu Pillai
15	,, S. Krishna Aiyar	33	,, G. B. E. Truscott
16	,, Puthupally S. Krishna Pillai	34	,, Puliyoor T. P. Vleayudhan Pillai
17	,, C. Kumara Das	35	,, N. Velu Achary
18	Rao Bahadur Rajyasevaniratha Dr. N. Kunjan Pillai	36	,, C. V. Chandrasekharan
		37	,, James Simpson

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NOES—24.

1	Mr. Kottalil P. Abraham	13	Mr. P. V. Mathai Chemparathy
2	,, K. M. Eapen	14	,, P. Nanoo
3	,, Kannara Gopala Panickar	15	,, K. Narayanaperumal Nadar
4	,, C. Jebamony Nadar	16	,, K. R. Narayanan
5	,, Joseph Vithayathil	17	,, E. John Philipose
6	,, K. Kesavan	18	,, P. J. Sebastian
7	,, M. Kesava Panickar	19	,, A. Thanu Pillai
8	,, K. P. Kochukora Tharakan	20	,, K. T. Thomas
9	,, P. K. Kumaran	21	,, E. P. Varghese
10	,, Thariathu Kunjithommen	22	,, T. M. Varughese
11	Sahib Bahadur P. K. Kunju	23	,, V. K. Velayudhan
12	Mr. P. Kunjukrishnan	24	,, P. Vivekanandam

NEUTRALS—3.

1 Mr. S. Narayana Pillai.
2 ,, M. K. Mackar Pillai.
3 ,, E. Subramonia Aiyar.

The motion was declared carried.

The Secretary then read the title of the Bill as "The Criminal Law Amendment Bill."

MR. KAYALAM PARAMESVARAN PILLAI: Sir, I beg to move that the Bill be refered to a Select Committee consisting of

Messrs. P. Kunjukrishnan,
P. V. Mathai Chemparathy,
P. Nanoo,
S. Narayana Pillai,
Codiveetil C. Raman Kunju,
S. Nilakanta Pillai,
S. Chattanatha Karayalar,
K. G. Kunjukrishna Pillai,
P. C. Adichan,
Kannara Gopala Panickar,
E. Subramonia Iyer and
S. Krishna Pillai,

to report within four months.

MR. C. V. CHANDRASEKHARAN: I second it.

The motion was put and carried.

PRESIDENT: The House is now adjourned *sine die*.

The House adjourned at 10·43 A. M.

E. I. CHACKO,
Secretary to the Sri Mulam Assembly.

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